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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,738	03/23/2006	Graciela Morales-Balado	MORALES1	6647
1444 7590 12/15/2008 BROWDY AND NEIMARK, P.L.L.C. 624 NINTH STREET, NW SUITE 300 WASHINGTON, DC 20001-5303				
EXAMINER				
TESKIN, FRED M				
ART UNIT		PAPER NUMBER		
1796				
MAIL DATE		DELIVERY MODE		
12/15/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/537,738

Applicant(s)

MORALES-BALADO ET AL.

Examiner

Fred M. Teskin

Art Unit

1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on September 23, 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-15, 18-20, 26-32 and 34-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-15, 18, 20, 26-32 and 34-36 is/are rejected.
- 7) ☒ Claim(s) 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Detailed Action

This Office action follows the reply filed on September 23, 2008. Claims 1-8, 16, 17, 21-25 and 33 have been cancelled. The specification and claims 9-15, 18-20, 26-32 and 34 have been amended. New claims 35 and 36 have been added. Accordingly, claims 9-15, 18-20, 26-32 and 34-36 are currently pending and under examination.

In view of the amendments made to the specification and the noted claims, the following objections and rejections of the last Office action have been withdrawn: (I) objections to the disclosure and to claims 4, 21 and 29 on informality grounds and (II) rejection of claims 1-33 under 35 U.S.C. 112, second paragraph.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 9-15 and 35 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. New claim 35 and depend claims 9-15 literally read on block copolymer compositions which lack the characterizing feature of polydispersity of the vinyl aromatic compound block as recited in claim 1. This subject matter does not appear to have been carried forward into the new claim (*cf.*, claim 1,

final three lines). As a result, claims 9-15 and 35 encompass a block copolymer composition wherein the block of vinyl aromatic compound is non-polydispersed; e.g., mono-dispersed. The specification is nowhere seen to describe, either expressly or implicitly, applicants' invention as including block copolymers lacking polydispersity in the vinyl aromatic compound block. Accordingly, said claims are properly rejected as failing to comply with the written description requirement of Section 112, first paragraph.

Claims 10-15 and 35 stand rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over either of US 5705569 (Moczygemba) or US 6235847 (Hoshi).

The rejection is maintained for the reasons of record (see pages 3-5 of last Office action) and those set out below in response to applicants' argument.

Claims 10-15 and 35 stand rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over US 5229472 (Binsbergen).

The rejection is maintained for the reasons of record (see page 6 of last Office action) and those set out below in response to applicants' argument.

Claims 18, 20, 26-32, 34 and 36 stand rejected under 35 U.S.C. 102(b) as being anticipated by EP 0879836.

The rejection is maintained for the reasons of record (see page 7 of last Office action) and those set out below in response to applicants' argument.

Applicants' arguments filed September 23, 2008 have been fully considered but they are not persuasive.

Applicants assert (i) that claim 8 has been rewritten as new claim 35 and (ii) that claim 18 has been amended to overcome the rejections based upon 35 U.S.C. 112 (Reply, p. 18).

Examiner acknowledges the indication on page 8 of the last Office action that claims 8 and 18 would be allowable if amended or rewritten to overcome the rejection under 35 U.S.C. 112 set forth therein and to include all the limitations of the base claim and any intervening claim. However, new claim 35 and amended claim 18 do not include all the limitations of *original* claims 8 and 18 and therefore cannot be found allowable in the absence of substantive traversal argument directed to their broader subject matter (none was presented in the reply). Particularly as to assertion (i): note that claim 8 recited a B/S ratio "between 70/30 and 60/40". New claim 35 recites a B/S ratio of "between 20/80 and 80/20". The latter range matches that recited in original claim 7, which was subject to rejection over *Moczygemba*, *Hoshi* or *Binsbergen*. Moreover, claim 35 nowhere recites (or otherwise includes) the characterizing feature of applicants' invention, *viz.*, a polydispersity as recited in claim 1, upon which claim 8 depended. As to assertion (ii): note that claim 18, as amended, does not reflect the polydispersity limitation recited in original claim 18. That limitation now appears in dependent claim 19. The amended version of claim 18 is substantively identical to original claim 17, which was subject to rejection over EP 0879836. The same rejection, therefore, properly applies to claim 18, as amended.

Claim 9 would be allowable if amended or rewritten to overcome the rejection under 35 U.S.C. 112 set forth in this Office action and to include all the limitations of the base claim and any intervening claim.

Claim 19 is objected to as being dependent on a rejected base claim, but would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claim.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner F. M. Teskin whose telephone number is (571) 272-1116. The examiner can normally be reached on Monday through Thursday from 7:00 AM - 4:30 PM, and can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu, can be reached on (571) 272-1114. The appropriate fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Fred M Teskin/
Primary Examiner, Art Unit 1796

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